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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

DEBRA LEE PAYNE,

Defendant and Appellant.

H041933

(Santa Clara County

Super. Ct. No. C1368286)

Defendant Debra Lee Payne appeals from a conviction for receiving stolen property. On appeal, defendant contends that the trial court erred in denying her petition for access to juror identifying information. As set forth below, we affirm.

STATEMENT OF THE CASE

An information, filed on June 5, 2014, charged defendant with receiving stolen property (Pen. Code, § 496, subd. (a)). The information alleged a prior strike conviction (Pen. Code, §§ 667, subds. (b)-(i), 1170.12). On July 30, 2014, a jury convicted defendant of receiving stolen property. That same day, the trial court found the prior strike allegation to be true.

On September 19, 2014, defendant filed a petition for access to juror identifying information. The trial court denied the petition on October 24, 2014.

On January 16, 2015, the trial court sentenced defendant to 32 months in prison.

Defendant now appeals from the judgment of conviction.

DISCUSSION¹

Defendant urges this court to reverse the order denying her petition for access to juror identifying information. She contends that the trial court abused its discretion in denying her petition because she established good cause for disclosure of juror identifying information. Specifically, she asserts that good cause was shown because the declaration accompanying her petition demonstrated that jurors committed misconduct when they “credited an extraneous statement of the law” in reaching their verdict. As explained below, defendant has failed to show an abuse of discretion, and we affirm.²

Background

At the close of the evidence, the trial court instructed the jury on the elements of receiving stolen property. That instruction informed the jury that defendant was guilty of receiving stolen property only if “she knew that the property had been stolen.” During closing arguments, the prosecutor and defense counsel emphasized that a conviction for receiving stolen property required the jury to find that defendant knew the property at issue was stolen.

The verdict form that the trial court provided to the jury stated: “We, the jury in the above-entitled action, find the defendant, DEBRA LEE PAYNE, (GUILTY/NOT GUILTY) of a violation of Penal Code section 496(a) (Buying, Receiving, Concealing, or

¹ The facts underlying defendant’s conviction are not relevant to our analysis of the issue presented on appeal. We therefore will not provide a summary of those facts.

² The Attorney General contends that defendant forfeited her argument because defense counsel failed to adequately raise the argument in the trial court. Defendant contends that, if her argument is deemed forfeited, her counsel rendered ineffective assistance in failing to sufficiently raise the argument below. Because we can easily resolve defendant’s claim on the merits, we will not address the issues of forfeiture and ineffective assistance of counsel.

Withholding Stolen Property) as charged in Count One of the Information.” The foreperson wrote the word “guilty” on the verdict form.

The jury was polled after it returned the guilty verdict. Each of the 12 jurors confirmed that the verdict was guilty.

Several weeks after the jury returned the guilty verdict, defendant filed a petition for access to juror identifying information. The petition asserted: “Juror information is necessary to communicate with the jurors in order to investigate whether the defense has grounds to develop a motion for a new trial based on juror misconduct.” In support of the petition, defendant offered a declaration from defense counsel. In the declaration, defense counsel stated that he spoke with one of the jurors, Ms. S., immediately after the jury returned the verdict. Defense counsel’s declaration described that conversation as follows: “[Ms. S.] stated to defense counsel she did not believe the charge had been proven beyond a reasonable doubt. [Ms. S.] specifically stated she believed [defendant] had no knowledge about whether the property was stolen. [Ms. S.] said, however, that the other jurors pointed out to her that the verdict form did not include the words ‘knowledge’ or ‘knowing’ in the description of the charge. [Ms. S.] stated that because of the insistence of the other jurors she believed that ‘knowledge’ wasn’t an element of the charge that needed to be proven. For that reason, she voted guilty.”

The trial court denied the petition for access to juror identifying information. In issuing its ruling, the trial court noted that evidence of a juror’s “mental processes” is inadmissible. The trial court then explained its ruling: “Good cause has to be shown to release this information. And given the fact that I don’t think what’s stated in [defense counsel’s] declaration in and of itself—even if I accept it as true, I don’t think it rises to the level of juror misconduct. I don’t think that there’s good cause to release the information. So I’m going to deny the petition.”

Disclosure of Juror Identifying Information: Legal Principles and the Standard of Review

“After a jury convicts a defendant, defense counsel will often wish to interview jurors (or have them interviewed by an investigator). ‘It is not uncommon at the conclusion of a criminal trial for the attorneys representing a convicted defendant to attempt to contact jurors to discuss the case with them. This procedure is usually employed in an effort to learn of juror misconduct or other information that might provide the basis for a motion for a new trial.’ [Citation.] While counsel may wish to inquire whether misconduct prejudiced their clients, jurors often want to keep their contact information confidential. ‘Discovery of juror names, addresses and telephone numbers is a sensitive issue which involves significant, competing, public policy interests.’ [Citation.]” (*People v. Tuggles* (2009) 179 Cal.App.4th 339, 380 (*Tuggles*).)

Disclosure of juror identifying information is governed by sections 206 and 237 of the Code of Civil Procedure. Code of Civil Procedure section 206, subdivision (g) provides, in pertinent part: “Pursuant to Section 237, a defendant or defendant’s counsel may, following the recording of a jury’s verdict in a criminal proceeding, petition the court for access to personal juror identifying information within the court’s records necessary for the defendant to communicate with jurors for the purpose of developing a motion for new trial or any other lawful purpose. . . . The court shall consider all requests for personal juror identifying information pursuant to Section 237.” Code of Civil Procedure section 237, subdivision (b) provides, in relevant part: “The petition shall be supported by a declaration that includes facts sufficient to establish good cause for the release of the juror’s personal identifying information. The court shall set the matter for hearing if the petition and supporting declaration establish a prima facie showing of good cause”

Good cause for disclosure of juror identifying information “requires ‘a sufficient showing to support a reasonable belief that jury misconduct occurred’ [Citation.]” (*People v. Cook* (2015) 236 Cal.App.4th 341, 345-346 (*Cook*).) “Good cause does not exist where the allegations of jury misconduct are speculative, conclusory, vague, or unsupported.” (*Id.* at p. 346.)

Evidence Code section 1150 places limitations on the evidence that may be considered when determining whether good cause for disclosure of juror identifying information exists. That section provides, in pertinent part: “Upon an inquiry as to the validity of a verdict, any otherwise admissible evidence may be received as to statements made, or conduct, conditions, or events occurring, either within or without the jury room, of such a character as is likely to have influenced the verdict improperly. No evidence is admissible to show the effect of such statement, conduct, condition, or event upon a juror either in influencing him to assent to or dissent from the verdict or concerning the mental processes by which it was determined.” (Evid. Code, § 1150, subd. (a).) Evidence Code section 1150 “ ‘distinguishes “between proof of overt acts, objectively ascertainable, and proof of the subjective reasoning processes of the individual juror, which can be neither corroborated nor disproved” ‘ [Citation.] ‘ “This limitation prevents one juror from upsetting a verdict of the whole jury by impugning his own or his fellow jurors’ mental processes or reasons for assent or dissent.” ’ ” (*People v. Danks* (2004) 32 Cal.4th 269, 302.)

“ ‘Absent a satisfactory, preliminary showing of possible juror misconduct, the strong public interests in the integrity of our jury system and a juror’s right to privacy outweigh the countervailing public interest served by disclosure of the juror information.’ [Citation.]” (*People v. Carrasco* (2008) 163 Cal.App.4th 978, 990 (*Carrasco*).) “Trial courts have broad discretion to manage these competing interests by allowing, limiting, or denying access to jurors’ contact information.” (*Tuggles, supra*, 178 Cal.App.4th at

p. 380.) A trial court's denial of a petition for access to juror identifying information is reviewed for abuse of discretion. (*Carrasco, supra*, 163 Cal.App.4th at p. 991.)

Defendant Has Failed to Show an Abuse of Discretion

Defendant contends that she established good cause for disclosure of juror identifying information because defense counsel's declaration provided a reasonable belief that jury misconduct occurred. Specifically, defendant asserts that the declaration showed that the jurors considered an "extraneous" statement of law—namely the verdict form—in reaching their verdict. Defendant correctly asserts that "it is misconduct for a juror to introduce extraneous law." (*People v. Mincey* (1992) 2 Cal.4th 408, 483; see also *People v. Marshall* (1990) 50 Cal.3d 907, 950.) Defendant also correctly asserts that "extraneous law" is defined as "a statement of law not given to the jury in the instructions of the court." (*In re Stankewitz* (1985) 40 Cal.3d 391, 397 (*Stankewitz*)). We now consider the merits of defendant's claim.

We begin our analysis by noting that only one piece of evidence in defense counsel's declaration could possibly be admitted under Evidence Code section 1150. That piece of evidence was the following statement in defense counsel's declaration: "[Ms. S.] said . . . that the other jurors pointed out to her that the verdict form did not include the words 'knowledge' or 'knowing' in the description of the charge." All of the other facts in defense counsel's declaration indisputably pertained to Ms. S.'s mental processes and reasons for assent to the verdict, evidence that would be inadmissible under Evidence Code section 1150. Indeed, defendant's entire argument regarding jury misconduct is based solely on Ms. S.'s statement that other jurors pointed out that the verdict form did not contain the words "knowledge" or "knowing." We must determine whether that statement provided good cause for release of juror identifying information.

In arguing that she established good cause, defendant emphasizes: "The very act of pointing out that the verdict form did not include the words 'knowledge' or 'knowing'

in the description of the charge is evidence of misconduct because it showed the jurors credited as law something not given to it in the court's instructions." Contrary to defendant's argument, Ms. S's statement that other jurors pointed out that the verdict form did not contain the words "knowledge" or "knowing" did not provide the requisite reasonable belief that jury misconduct occurred. Ms. S's statement showed only that jurors pointed out that the verdict form did not include the words "knowledge" or "knowing." Mere recognition that the verdict form lacked those words does not show that jurors credited the verdict form as a statement of law. We would have to engage in speculation to adopt defendant's argument and conclude that Ms. S's statement showed that the jurors treated the verdict form as a statement of law. Such speculation does not provide good cause for disclosure of juror identifying information. (*Cook, supra*, 236 Cal.App.4th at p. 346 [good cause does not exist where the allegation of jury misconduct is speculative].)

Moreover, to conclude that Ms. S's statement showed jury misconduct, we would have to consider her statement in a manner that runs afoul of Evidence Code section 1150. Under Evidence Code section 1150, evidence is inadmissible to show the "mental processes" by which a verdict was determined. (Evid. Code, § 1150, subd. (a).) To accept defendant's argument and conclude that Ms. S's statement showed jury misconduct, we would have to infer from her statement that the jurors believed the verdict form was a statement of law and that they considered the verdict form as a statement of law in reaching their verdict. To view Ms. S's statement in such a fashion would improperly "implicate the reasoning processes of jurors." (*Stankewitz, supra*, 40 Cal.3d at p. 398.)

In sum, defendant failed to establish a reasonable belief that jury misconduct occurred, and good cause for disclosure of juror identifying information did not exist.

Defendant has not shown that the trial court abused its discretion in denying her petition for access to juror identifying information, and we must affirm.

DISPOSITION

The judgment is affirmed.

RUSHING, P.J.

WE CONCUR:

PREMO, J.

MÁRQUEZ, J.

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